

WHEN RACE AND FREEDOM OF SPEECH COLLIDE: AN ANALYSIS OF A COLLEGE PROFESSOR'S THOUGHTS ABOUT THE BLACK LIVES MATTER MOVEMENT

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Freedom of speech is one of the most proudly professed traits of democratic societies, and is often considered a cornerstone of American democracy. However, with the capacity for instant communication via social media, it raises the question: should there be restrictions placed on certain types of communication? In the case of University of Virginia Engineering and Business professor, Doug Muir, this is exactly what occurred. According to a commentary article published on [CNS News](#), Mr. Muir was asked to take a leave of absence because of comments he posted on Facebook about Black Lives Matter. On his Facebook page, Mr. Muir wrote, “*Black lives matter is the biggest racist organization since the clan. Are you kidding me? Disgusting!!!*”

While the University upheld the position that Mr. Muir's comments were “*entirely inappropriate,*” and stated that “*faculty and staff are responsible for upholding our values and demonstrating them to students and the community.*” It warrants the question, did the university overreach the parameters of its authority and violate Mr. Muir's First Amendment rights? This case presents an interesting juxtaposition; on one hand, Mr. Muir posted his comment on his personal Facebook page. He did not make his remarks while representing the university in his role as a faculty member, nor did he post them on the university's website or social media channels. Yet, despite these factors, Mr. Muir was still expected to maintain a certain standard of conduct and tact, both in his professional, as well as his personal communications. If only government can violate an individual's First Amendment rights in the United States, then technically, the university requesting that Mr. Muir take leave was not a First Amendment violation. However, as a public institution of higher education that accepts Federal financial aid

funds, could the University of Virginia in fact be held accountable for upholding and protecting Mr. Muir's right to free speech? Despite the ambiguity of the case, it does raise the question: how much control should an employer have over the communication of their employees?

On a legal basis, it is not clear whether the case represents a First Amendment violation. On one hand, the University of Virginia is a public, federally funded institution. As such, it could be argued that the university violated Mr. Muir's First Amendment right by requiring him to take a leave of absence for something he communicated on his personal social media page. Conversely, it could be debated that as a faculty member and public figure, Mr. Muir's personal comments could have a potentially damaging impact on the university's public image; creating justification for his leave as a necessary step in mitigating the damage of his remarks. Additionally, it is not clear whether the university had any type of personnel policy governing controversial speech, or if Mr. Muir had a stipulation in his faculty contract addressing the matter.

When examined from an ethical perspective; it does pose a challenging dilemma. While I do not support or agree with Muir's statement about the Black Lives Matters movement, I do respect his right to express his personal feelings and beliefs about it. The censoring of what one says outside of the workplace, due to their position within an organization sets a potentially dangerous precedent. As a society, we are beginning to see similar actions being taken by entities such as the National Football League, as many teams are beginning to put stipulations into the contracts of players regarding prohibited off the field conduct.

The personal communication and private lives of individuals is becoming an increasingly public matter. Much of this can be attributed to the ubiquitous nature of social media. Mediums, such as Facebook, Twitter, LinkedIn, and Google+, have created forums that enable private

individuals to broadcast their thoughts and opinions across the globe. While these applications have provided social and political platforms for disenfranchised individuals and groups, they also offer a mechanism for personal data collection and monitoring. As a workforce development professional, many employers have confided to me that they utilize Facebook as a screening tool for potential employees. In an era where privacy of personal communication is becoming a relic of the past, how do we balance our roles as digital citizens with our desire to maintain privacy? Does being a participant in the digital age mean accepting that one's thoughts, ideas, and opinions are permanently accessible for scrutiny?

As an educator, I think many would perceive Muir's Facebook comment as one-sided, lacking substance, and distasteful at best. If he had posted it on the university website, Facebook page, or some other university sponsored online forum, I feel the university would have been justified in asking him to take leave. However, since nothing in the article indicated that he had utilized university resources when posting his remarks, I am not sure the university's response was warranted. The only exception would be if the university had some type of clause in Muir's contract, prohibiting him from engaging in political or controversial commentary while employed with the university. I know first-hand that AmeriCorps National Corporation for Community Service includes such stipulations for some of its programs in member contracts; these stipulations prohibit them from engaging in any type of political organizing or activism during their year of service.

While his comments may not have been intentionally malicious; they could have tarnished the university's reputation among donors, students, and alumni—resulting in financial loss. Herein lies the challenge: when does making a comment as a private citizen cross into the realm of public life? As citizens living in an increasingly digital world, could we be liable for the

comments and opinions that we express on our personal social media in the privacy of our homes? Freedom of speech is not free—it comes at a price. Similar to Justine Sacco’s Twitter fiasco, Doug Muir’s story illustrates that sharing our private thoughts with the world can come at a substantial cost.

Whether we as a culture can reconcile the need to shame and punish individuals for their distasteful remarks, while simultaneously upholding the professed value of free speech remains to be seen. One thing is certain, the comments, opinions, and thoughts of private citizens are rapidly becoming part of the broader public discourse—resulting in a culture that sees no distinction between one’s private and professional life.